

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 3234



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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FEDERAL ELECTION COMMISSION  
SECRETARY  
2017 FEB 14 PM 3:05

February 14, 2017

MEMORANDUM

SENSITIVE

TO: The Commission

THROUGH: Alec Palmer *for PCO*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: Kristin D. Roser *BH for KDR*  
Compliance Branch

SUBJECT: Reason to Believe Recommendation -  
Failure to File 48-Hour Notices under the Administrative Fines Program

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from the close of books for the Indiana 12 Day Pre-Primary Report up to 48 hours before the May 3, 2016 Primary Election in accordance with 52 U.S.C. § 30104(a) and 11 CFR. § 104.5(f). The committee, Stutzman for Senate, represents a candidate who lost the Primary Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$36,150.00.

A 48-hour notice is required to report all contributions of a \$1,000.00 or more, to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per 11 CFR § 104.5(f).

We have attached an information sheet which includes the contributor name, date of receipt and amount of the contributions for which a 48-hour notice was not filed.

In accordance with the schedule of civil money penalties outlined within 11 CFR § 111.44, this committee should be assessed the civil money penalty so indicated.

17000001004800

### **Recommendation**

1. Find reason to believe that Stutzman for Senate and Christopher M. Marston, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$4,588 be assessed.
2. Send the appropriate letter.

### **Attachment**

INFORMATION

**Contributions for Which a 48-Hour Notice Was Not Received<sup>1</sup>**

**AF 3234**

**Committee ID: C00484683**

**Committee Name: Stutzman for Senate**

**Report Type: July Quarterly Report (04/14/2016 – 06/30/2016)**

**48-Hour Reporting Period: 04/14/2016 – 04/30/2016**

CONTRIBUTOR	DATE	AMOUNT
MARSHALL, MARK	04/19/2016	\$1,000.00
BROYLES, JAMES	04/22/2016	\$1,700.00
DOENGES, RICHARD MR	04/22/2016	\$1,200.00
FANNING, ROBERT CLARK MR	04/22/2016	\$2,700.00
RYDIN, MICHAEL	04/23/2016	\$1,000.00
GUN OWNERS OF AMERICA	04/26/2016	\$4,950.00
I.T. MANAGEMENT LLC	04/26/2016	\$1,000.00
MABRY, ROBERT TODD	04/26/2016	\$2,700.00
MARCOTT FAMILY PARTNERSHIP, LLC	04/26/2016	\$5,000.00
MARCOTT, DENNIS MR	04/26/2016	\$5,000.00
SCRIFRES, DON MR	04/26/2016	\$2,700.00
SPANO, PETER F MR	04/26/2016	\$1,000.00
BORGEN, DAVID JAYE MR	04/27/2016	\$1,000.00
MILLER, PAT	04/27/2016	\$1,000.00
BORGEN, DAVID JAYE	04/28/2016	\$1,000.00
KRUSE, JOHN P MR	04/28/2016	\$2,200.00
BOUTON, NORMAN	04/29/2016	\$1,000.00
<b>TOTAL</b>		<b>\$36,150.00</b>

**Proposed Civil Money Penalty: \$4,588.00** ((7 Notices Not Filed at \$139 each) + (10% of the Overall Contributions Not Filed))

<sup>1</sup> The Committee electronically filed 48-Hour Notices for these contributions using the electronic filing password assigned before the Committee's conversion from a U.S. House of Representatives to a U.S. Senate committee in May 2015. These notices can be found on the FEC's Unofficial Senate Electronic Filings web page and do not satisfy the reporting requirements for U.S. Senate.

CONFIDENTIAL

AF#	3234	Committee ID	C00484683	Committee Name	STUTZMAN FOR SENATE	State	IN	Election	2016	Candidate Name	MARLIN A. STUTZMAN	Treasurer	CHRISTOPHER M. MARSTON	Prev Violations	0	Notices Not Filed	7	LOA	\$38,150	Penalty	\$4,588
Federal Election Commission																					
Reason to Believe Circulation Report																					
48-Hour Notification Report																					
2/14/2017 12:45 PM																					

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 3234  
Reason to Believe Recommendation – )  
Failure to File 48-Hour Notices under the )  
Administrative Fines Program: Stutzman )  
for Senate and Christopher M. Marston, )  
in his official capacity as treasurer )

CERTIFICATION


I, Dayna C. Brown, Acting Secretary and Clerk of the Federal Election  
Commission, do hereby certify that on February 17, 2017, the Commission  
decided by a vote of 6-0 to take the following actions in AF 3234:

1. Find reason to believe that Stutzman for Senate and Christopher M.  
Marston, in his official capacity as treasurer, violated 52 U.S.C.  
§ 30104(a) and make a preliminary determination that a civil money  
penalty of \$4,588 be assessed.
2. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub  
voted affirmatively for the decision.

Attest:

February 21, 2017  
Date

  
Dayna C. Brown  
Acting Secretary and Clerk of the  
Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 24, 2017

Christopher M. Marston, in official capacity as Treasurer  
Stutzman for Senate  
P.O. Box 129  
Howe, IN 46746

C00484683  
AF#: 3234

Dear Mr. Marston:

The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Federal Election Commission ("FEC"), and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 52 U.S.C. § 30104(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 52 U.S.C. § 30104(a). Our records indicate that Stutzman for Senate did not submit 48-Hour Notices for contributions of \$1,000 or more, received between April 14, 2016 and April 30, 2016, totaling \$36,150, as required by 52 U.S.C. § 30104(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On February 21, 2017, the FEC found that there is Reason to Believe ("RTB") that Stutzman for Senate and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$4,588. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$137 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment of \$4,588 within forty (40) days of the finding, or by April 2, 2017.

At this juncture, the following courses of action are available to you:

1. **If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or April 2, 2017. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Stutzman for Senate and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate



action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

**NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

**4. Partial Payments**

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

**5. Settlement Offers**

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Aimee Wechsler in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Steven T. Walther  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at RTB is \$4,588 for the 2016 Primary Election 48-Hour Notification Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit [www.fec.gov/af/pay.shtml](http://www.fec.gov/af/pay.shtml) to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Stutzman for Senate

FEC ID#: C00484683

AF#: 3234

PAYMENT DUE DATE: April 2, 2017

PAYMENT AMOUNT DUE: \$4,588

**Contributions for Which a 48-Hour Notice Was Not Received<sup>1</sup>****AF 3234****Committee ID: C00484683****Committee Name: Stutzman for Senate****Report Type: July Quarterly Report (04/14/2016 – 06/30/2016)****48-Hour Reporting Period: 04/14/2016 – 04/30/2016**

CONTRIBUTOR	DATE	AMOUNT
MARSHALL, MARK	04/19/2016	\$1,000.00
BROYLES, JAMES	04/22/2016	\$1,700.00
DOENGES, RICHARD MR	04/22/2016	\$1,200.00
FANNING, ROBERT CLARK MR	04/22/2016	\$2,700.00
RYDIN, MICHAEL	04/23/2016	\$1,000.00
GUN OWNERS OF AMERICA	04/26/2016	\$4,950.00
I.T. MANAGEMENT LLC	04/26/2016	\$1,000.00
MABRY, ROBERT TODD	04/26/2016	\$2,700.00
MARCOTT FAMILY PARTNERSHIP, LLC	04/26/2016	\$5,000.00
MARCOTT, DENNIS MR	04/26/2016	\$5,000.00
SCRIFRES, DON MR	04/26/2016	\$2,700.00
SPANO, PETER F MR	04/26/2016	\$1,000.00
BORGEN, DAVID JAYE MR	04/27/2016	\$1,000.00
MILLER, PAT	04/27/2016	\$1,000.00
BORGEN, DAVID JAYE	04/28/2016	\$1,000.00
KRUSE, JOHN P MR	04/28/2016	\$2,200.00
BOUTON, NORMAN	04/29/2016	\$1,000.00
<b>TOTAL</b>		<b>\$36,150.00</b>

**Proposed Civil Money Penalty: \$4,588.00 ((7 Notices Not Filed at \$139 each) + (10% of the Overall Contributions Not Filed))**

<sup>1</sup> The Committee electronically filed 48-Hour Notices for these contributions using the electronic filing password assigned before the Committee's conversion from a U.S. House of Representatives to a U.S. Senate committee in May 2015. These notices can be found on the FEC's Unofficial Senate Electronic Filings web page and do not satisfy the reporting requirements for U.S. Senate.

March 23, 2017

RECEIVED  
FEC MAIL CENTER  
2017 MAR 27 AM 11:45

Stutzman for Senate  
PO Box 129  
Howe IN 46746

Office of Administrative Review  
Federal Election Commission  
999 E St NW  
Washington DC 20463

RE: Stutzman for Senate  
FEC ID#: C00484683  
AF#: 3234

Declaration of Christopher M. Marston

Pursuant to 11 CFR 111.35, I hereby declare as follows:


1. Stutzman for Senate (hereinafter, "the Committee") and I, in my official capacity as treasurer, challenge the RTB Finding and/or Civil Money Penalty on the grounds of a miscalculation of the calculated civil money penalty by the FEC.
2. The Commission based its fine calculation on a finding of 7 notices not filed, presumably based on the 7 separate dates on which the contributions were recorded.
3. A Committee can comply with the 48-Hour notice requirement by submitting contributions received on two days in a single notice (e.g., a notice dated 1/31 could include contributions received on 1/29 and 1/30 would satisfy the requirement for those contributions).
4. The Committee could have met the 48-Hour notice requirement with 3 notices—one covering contributions received on April 22, a second covering those received on April 26 and April 27, and a third covering those received on April 28 and April 29.
5. The Committee believes the fine calculation should be based on 3 notices not filed, rather than 7 notices not filed.
6. The contributions dated April 19 and April 23 were both received through a conduit—the Senate Conservative Fund. On its July Quarterly Report, the Committee properly reported these contributions on the date the conduit reported receiving them, but the Committee received them from the conduit on April 26. So, for purposes of Form 6 48-Hour Notices, those contributions would properly have been reported along with contributions received by the Committee on April 26.
7. The Committee generally followed the pattern of filing 48-Hour Notices covering two days, both in those properly filed by fax to the Secretary of the Senate on April 22, April 24, April 26, and

May 2, and those inadvertently filed electronically on April 28 (covering April 26 and April 27) and April 30 (covering April 28 and April 29). See Footnote 1 on page 5 of the RTB letter and the Unofficial Senate Electronic Filings web page.

8. The Committee notes that the regulations promulgated by the Commission do not specify a penalty per day of contributions not included in a notice, but per notice. See 11 CFR 111.44.
9. Even if the Commission determines that the fine should be based on a penalty per day of contributions not included in a notice, the Committee believes that the contributions discussed in paragraph 5 should not be counted separately from other contributions received on April 26, so that the calculation of the fine should include at most 5 notices not filed.
10. Based on the foregoing, the Committee believes the fine would be properly calculated as \$4,032 ((3 Notices Not Filed at \$139 each) + (10% of the Overall Contributions Not Filed)). The Committee notes that the text of the RTB letter indicates a \$137 per notice fine on page 1, but the calculation on page 5 reflects the \$139 per notice fine based on the inflation adjustment for 2017.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 23 day of March, 2017.

A handwritten signature in black ink, appearing to read 'Christopher M. Marston', with a long horizontal flourish extending to the right.

Christopher M. Marston

11-00000-110101



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 6, 2017

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 3234 – Stutzman for Senate and Christopher M. Marston, in his official capacity as Treasurer (C00484683)

**Summary of Recommendation**

Make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$4,171 civil money penalty.

**Reason-to-Believe Background**

In connection with the 2016 Indiana Primary Election held on May 3, 2016, the respondents were required to file 48-Hour Notices of Contributions/Loans ("48-Hour Notices") for contributions of \$1,000 or more received between April 14, 2016 and April 30, 2016.

On February 21, 2017, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for 17 contributions totaling \$36,150 and made a preliminary determination that the civil money penalty was \$4,588 based on the schedule of penalties at 11 C.F.R. § 111.44. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on February 24, 2017 to notify them of the Commission's RTB finding and civil money penalty.

**Legal Requirements**

The Federal Election Campaign Act ("Act") requires that the principal campaign committee of a candidate must notify the Commission, in writing, of any contribution of \$1,000 or more received after the 20<sup>th</sup> day but more than 48 hours before an election. The principal campaign committee must notify the Secretary of the Senate within 48 hours of receipt of the contribution. The 48-hour notification shall be in addition to all other reporting requirements under the Act. 52 U.S.C. § 30104(a)(6)(A) and 11 C.F.R. § 104.5(f). All reports required to be filed by the principal campaign committee of a candidate for the office of U.S. Senator shall be filed with the Secretary of the Senate. 52 U.S.C. § 30102(g) and 11 C.F.R. § 105.2. The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

## Summary of Respondents' Challenge

On March 27, 2017, the Commission received the written response ("challenge") from the respondents indicating the civil money penalty was incorrectly calculated. In the Declaration of Christopher M. Marston, the Treasurer states that "the fine calculation should be based on 3 notices not filed, rather than 7 notices not filed." He further explains that they "...could have met the 48-Hour notice requirement with 3 notices - one covering contributions received on April 22, a second covering those received on April 26 and April 27, and a third covering those received on April 28 and April 29."

The Treasurer also states that the 2 contributions received on April 19 and 23, 2016 were received through a conduit on those dates. However, the Committee did not receive these contributions until April 26, 2016. Therefore, these contributions should have been reported with the other contributions received on April 26, 2016.

Finally, the Treasurer explains that the Committee generally filed 48-Hour Notices covering contributions received over 2 days. The Committee appropriately filed 48-Hour Notices on paper with the Secretary of the Senate on April 22, April 24, April 26, and May 2, 2016. However, it inadvertently electronically filed 48-Hour Notices on April 28 and April 30, 2016.

## Analysis

On June 14, 2010, the Committee registered with the Commission as Stutzman for Congress, the principal campaign committee for House Candidate Marlin A. Stutzman. According to RAD telecoms (written records of telephone conversations), on May 4, 2015, the Treasurer contacted a RAD Analyst to inform her the Candidate would be running for Senate in 2016. Among other advice, the RAD Analyst specifically mentioned that the Committee would no longer be able to electronically file its reports with the Commission. Instead, it must file its reports on paper with the Secretary of the Senate. 52 U.S.C. § 30102(g) and 11 C.F.R. § 105.2. On May 9, 2015, the Committee filed an Amended Statement of Organization changing the name of the Committee to Stutzman for Senate and indicating the Candidate was now seeking election in the Senate.

As referenced in the challenge and RTB Letter, the Committee electronically submitted 48-Hour Notices to the Commission on April 28 and April 30, 2016, which included 13 contributions totaling \$29,550. While the respondents do not contend that these electronic submissions should be considered official filings, the Reviewing Officer confirms that these electronic 48-Hour Notices are not considered filed, and the 13 contributions totaling \$29,550 were appropriately included in the RTB finding. The Reviewing Officer also confirms the remaining 4 contributions included in the RTB finding, totaling \$6,600, were not included on any 48-Hour Notice. Therefore, the Committee failed to file 48-Hour Notices for 17 contributions totaling \$36,150. See Attachment 3.

The respondents contend that the civil money penalty was incorrectly calculated at RTB. Specifically, they state that the Commission incorrectly calculated the number of missing 48-Hour Notices. At RTB, RAD calculated the number of missing 48-Hour Notices in accordance with its procedures at that time. The cited contributions were received on 7 separate days, resulting in 7

separate 48-Hour Notice deadlines. Therefore, RAD calculated the number of missing 48-Hour Notices to be 7. However, the Committee contends that it is possible to combine contributions received on multiple days onto a single 48-Hour Notice.

The Office of Administrative Review ("OAR") requested that the Office of General Counsel ("OGC") provide guidance on the proper calculation of the number of notices not filed. OGC subsequently advised that it agreed that the Committee could have complied with 48-Hour Notice requirements by reporting contributions received on consecutive days in a single 48-Hour Notice. Therefore, OGC recommended that the civil money penalty be recalculated based on the minimum number of notices that the Committee could have timely filed.

The Committee contends that it could have appropriately reported all of the questioned contributions in 3 48-Hour Notices. The Reviewing Officer does agree that the contributions received on April 22 and 26-29, 2017 could have been timely reported on only 3 separate 48-Hour Notices. However, the respondents incorrectly conclude the contributions received via a conduit on April 19 and 23, 2016 can be considered received on April 26, 2016. The date of receipt is the date the person acting as a conduit obtains possession of the contribution. 11 C.F.R. § 102.8(a). Therefore, these contributions are considered received on April 19 and 23, 2016, as originally reported by the Committee. The April 19 contribution could not have been timely reported in combination with any other contributions in question and required a separate 48-Hour Notice. The April 23 contribution could have been timely reported in combination with the contributions received on April 22. Therefore, the Reviewing Officer concludes that the Committee failed to file 4 separate 48-Hour Notices.<sup>1</sup> See Attachment 3.

Pursuant to 11 C.F.R. § 111.44, the calculation of the civil money penalty is \$139<sup>2</sup> plus 10 percent of the amount of the contributions not reported on each 48-Hour Notice. The respondents failed to file 4 separate 48-Hour Notices for 17 contributions totaling \$36,150. Therefore, the amount of the civil money penalty should be  $(\$139 \times 4) + (.10 \times \$36,150)$  or \$4,171. The Reviewing Officer recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$4,171 civil money penalty, reduced from the RTB civil money penalty of \$4,588.

<sup>1</sup> The Memorandum from OGC agrees with the Committee's assessment that it failed to file only 3 notices. However, since OAR did not request guidance pertaining to the conduit contributions, OGC did not consider this portion of the respondents' argument.

<sup>2</sup> Effective February 2, 2017, the civil money penalty was adjusted for inflation to \$139 per missing notice. The Memorandum from OGC refers to the previous penalty of \$137 for each missing notice. 82 Fed. Reg. 8986 (February 2, 2017)



### **OAR Recommendations**

1. Adopt the Reviewing Officer Recommendation for AF# 3234 involving Stutzman for Senate and Christopher M. Marston, in his official capacity as Treasurer, in making the final determination;
2. Make a final determination in AF# 3234 that Stutzman for Senate and Christopher M. Marston, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$4,171 civil money penalty (reduced from the RTB civil money penalty of \$4,588); and
3. Send the appropriate letter.

### **Attachments**

Attachment 1

Attachment 2

Attachment 3

Attachment 4 – Declaration from RAD

Attachment 5 – Declaration from OAR

**DECLARATION OF KRISTIN D. ROSER**

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the FECFile software or administrative fine regulations, including due dates of reports and filing requirements.
3. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Stutzman for Senate:
  - A) Request for Additional Information for the Amended 2016 July Quarterly Report, received October 18, 2016, referencing the missing 48-Hour Notices (sent via electronic mail to: [chris@electioncfo.com](mailto:chris@electioncfo.com));
  - B) Reason-to-Believe Letter, dated February 24, 2017 referencing the missing 48-Hour Notices (sent via overnight mail to the address of record).
4. I hereby certify that I have searched the Commission's public records and find that Stutzman for Senate unofficially e-filed the 48-Hour Notices on April 28, 2016 and April 30, 2016. Stutzman for Senate filed the 48-Hour Notices on paper on January 31, 2017 with the Commission.
5. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 12<sup>th</sup> day of April, 2017.

*Ben Hull for KDR*  
\_\_\_\_\_  
Kristin D. Roser  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

November 3, 2016

CHRISTOPHER M. MARSTON, TREASURER  
STUTZMAN FOR SENATE  
PO BOX 129  
HOWE, IN 46746

Response Due Date

12/08/2016

IDENTIFICATION NUMBER: C00484683

REFERENCE: AMENDED JULY QUARTERLY REPORT (04/14/2016 - 06/30/2016),  
RECEIVED 10/18/2016

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. An adequate response must be received at the Senate Public Records Office by the response date noted above. Failure to adequately respond by the response date noted above could result in an audit or enforcement action. Additional information is needed for the following 3 item(s):

1. Schedule A of your report discloses one or more contributions that appear to exceed the limits set forth in the Act (see attached). The Commission notes your additional explanation regarding the committee's corrective action taken for some of these contributions.

An individual or a political committee other than an authorized committee or a qualified multi-candidate committee may not make a contribution(s) to a candidate for federal office in excess of \$2,700 per election. An authorized committee may not make a contribution(s) to a candidate for federal office in excess of \$2,000 per election. A qualified multi-candidate committee and all affiliated committees may not make a contribution(s) to a candidate for federal office in excess of \$5,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (52 U.S.C. § 30116(a) and (f) (formerly 2 U.S.C. § 441a(a) and (f)); 11 CFR §§ 110.1(b), (e) and (k), and 102.13(c))

If any apparently excessive contribution in question was incompletely or incorrectly disclosed, you must amend your original report with clarifying information.

**STUTZMAN FOR SENATE**

Page 2 of 5

Please be reminded that all refunds, redesignations and reattributions must be made within 60 days of receipt of the contribution. To date, one or more of the apparent excessive contributions have not been refunded, redesignated, or reattributed.

For reattributions, the funds can be retained if, within 60 days of receipt, the excessive amount was properly reattributed to another person. An excessive contribution is considered properly reattributed if (1) the contributors provide the committee with written documentation, signed by each contributor, authorizing a reattribution and indicating the amount of the contribution to be attributed to each contributor; or (2) the committee reattributes by presumption the excessive portion of the contribution if the contribution was made on a written instrument from a joint account and was signed by only one of the account holders. In this case, the treasurer must notify the contributors in writing within 60 days of receiving the contribution that the committee intends to reattribute the excessive portion and must give the contributor who signed the check an opportunity to request a refund. (11 CFR § 110.1(k)(3)(ii)(B))

For redesignations, the funds can be retained if, within 60 days of receipt, the excessive amount was properly designated for a different election. An excessive contribution is considered properly redesignated if (1) the committee obtains signed written documentation from the contributor(s) authorizing the redesignation of the contribution for another election, provided that the new designation does not exceed the limitations on contributions made with respect to that election; or (2) the committee redesignates by presumption the excessive portion of the contribution for another election, provided that the new designation does not exceed the limitations on contributions made with respect to that election. In this case, the treasurer must notify the contributor of the redesignation in writing within 60 days of the treasurer's receipt of the contribution. The notification must give the contributor an opportunity to request a refund. (11 CFR § 110.1(b)(5)(ii)(B)) A contribution can only be redesignated to a previous election to the extent that the contribution does not exceed the committee's net debts outstanding for that election. (11 CFR § 110.1(b)(3)(i))

If the foregoing conditions for reattributions or redesignations are not met within 60 days of receipt, the excessive amount must be refunded. (11 CFR § 103.3(b)(1))

**STUTZMAN FOR SENATE**

Page 3 of 5

If you have not already done so, please inform the Commission of your corrective action immediately in writing and provide photocopies of any refund checks and/ or letters reattributing or redesignating the contributions in question. Refunds are reported on Line 20(a), (b), or (c), as applicable, of the Detailed Summary Page and on a supporting Schedule B of the report covering the period in which they are made. Redesignations and reattributions are reported as memo entries on Schedule A of the report covering the period in which the authorization for the redesignation and/or reattribution is received. (11 CFR § 104.8(d)(2), (3) and (4))

Although the Commission may take further legal action concerning the acceptance of excessive contributions, your prompt action to refund or redesignate and/or reattribute the excessive amount will be taken into consideration.

2. While it is permissible for a person to make a contribution for the general election prior to the primary election, the recipient committee must employ an acceptable accounting method to distinguish between primary and general election contributions. (11 CFR § 102.9(e)) This general election amount must be maintained in the committee's account.

Since the candidate will not participate in the general election, any contribution received for the general election must be returned to the donors or redesignated to the primary if your committee has net debts outstanding for the primary election. To redesignate a contribution the committee must either (1) obtain signed written documentation from the contributor(s) authorizing the redesignation of the contribution for another election provided that the new designation does not exceed the limitations on contributions made with respect to that election, or (2) redesignate the contribution by presumption to the primary election, for undesignated contributions made after the primary but before the general election, provided that the new designation does not exceed the limitations on contributions made with respect to that election. In this case, the treasurer must notify the contributor of the redesignation in writing. The notification must give the contributor an opportunity to request a refund. A contribution can only be redesignated to a previous election to the extent that the contribution does not exceed net debts outstanding for that election. (11 CFR § 110.1(b)(3)(i) and (5)(ii)(C))

The attached general election contributions do not appear to have been remedied. Any subsequent report(s) filed with the Commission must disclose the refund or redesignation of any general election contribution. Refunds or

**STUTZMAN FOR SENATE**

Page 4 of 5

redesignations must be done within 60 days after the 2016 Primary Election.

Although the Commission may take further legal action, your prompt action to refund these contributions will be taken into consideration.

3. Schedule A of your report indicates that your committee may have failed to file one or more of the required 48-hour notices regarding "last minute" contributions received by your committee after the close of books for the 12 Day Pre-Primary Report (see attached). A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution of \$1,000 or more received between two and twenty days before an election. These contributions are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions of \$1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions received during the aforementioned time period. The failure to file 48-hour notices may result in civil money penalties or legal enforcement action. (11 CFR § 104.5(f))

If any contribution of \$1,000 or more was incorrectly reported, you must amend your original report with the clarifying information.

**Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. Requests for extensions of time in which to respond will not be considered.**

A written response or an amendment to your original report(s) correcting the above problems should be filed with the Senate Public Records Office. Please contact the Senate Public Records Office at (202) 224-0322 for instructions on how and where to file an amendment. For additional information about the report review process or specific filing information for your committee type, please visit <http://www.fec.gov/rad/>. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1174.

STUTZMAN FOR SENATE

Page 5 of 5

Sincerely,

A handwritten signature in black ink, appearing to read "Jaime", with a stylized flourish extending to the right.

Jaime Amrhein  
Senior Campaign Finance Analyst  
Reports Analysis Division

433

**Excessive, Prohibited, and Impermissible Contributions  
Stutzman for Senate (C00484683)**

**Excessive Contributions from Individuals**

Contributor Name	Date	Amount	Election
Colbert, Thomas W	7/28/15	\$2,700.00	P2016
Colbert, Thomas W Mr	4/26/16	\$2,700.00	P2016
Fanning, Robert Clark Mr	7/9/15	\$2,700.00	P2016
Fanning, Robert Clark Mr	4/22/16	\$2,700.00	P2016
Hillman, Tatnall	3/3/16	\$5,400.00	P2016
Hillman, Tatnall	3/29/16	-\$2,700.00	P2016
Hillman, Tatnall	5/1/16	\$2,700.00	P2016
Marcott Family Partnership, LLC	4/26/16	\$5,000.00	P2016
Marcott, Dennis Mr	8/12/15	\$5,400.00	P2016
Marcott, Dennis Mr	10/11/15	-\$2,700.00	P2016
Marcott, Dennis Mr	4/26/16	\$5,000.00	P2016
Rahe, Eleanor Sue Mrs	2/18/16	\$1,500.00	P2016
Rahe, Eleanor Sue Mrs	4/26/16	\$3,000.00	P2016
Stutzman, Sarah Kathryn Mrs	8/31/15	\$8.31	P2016
Stutzman, Sarah Kathryn Mrs	9/30/15	\$300.00	P2016
Stutzman, Sarah Kathryn Mrs	10/30/15	\$2,300.00	P2016
Stutzman, Sarah Kathryn Mrs	3/30/16	\$52.00	P2016
Stutzman, Sarah Kathryn Mrs	4/27/16	\$100.00	P2016
Stutzman, Sarah Kathryn Mrs	4/28/16	\$500.00	P2016



**General Election Contributions  
Stutzman for Senate (C00484683)**

**2016 July Quarterly Report**

Contributor Name	Date	Amount	Election
Britton, Beatrice Mrs.	6/3/16	\$100.00	G2016
Christman, Lillian G Ms	5/17/16	\$50.00	G2016
Cole, Charis Mrs	5/27/16	\$50.00	G2016
Cosentino, Helen Mrs	5/23/16	\$25.00	G2016
Coward, Georgia	5/23/16	\$50.00	G2016
Curtis, Cynthia Mrs	5/23/16	\$25.00	G2016
Devilbiss, Edwin L	5/17/16	\$100.00	G2016
Fitzsimmons, Richard	5/23/16	\$25.00	G2016
Gordon, Maria Christina Ms	5/23/16	\$10.00	G2016
Gutmann, Leigh	5/17/16	\$50.00	G2016
Julian, Richard	5/23/16	\$20.00	G2016
Nau, Car A Mr Jr	5/17/16	\$100.00	G2016
Oleary, Keith	6/1/16	\$25.00	G2016
Pisacane, Louis	5/23/16	\$35.00	G2016
Reyling, John Mr	6/1/16	\$25.00	G2016
Seley, James C Mr	5/17/16	\$50.00	G2016
Torres, Roldan Mr	5/23/16	\$10.00	G2016
Wilson, Rodney E Mr	5/17/16	\$25.00	G2016

**Missing 48-Hour Notices**  
**Stutzman for Senate (C00484683)**

Contributor Name	Date	Amount	Election
Marshall, Mark	4/19/16	\$1,000.00	P2016
Broyles, James	4/22/16	\$1,700.00	P2016
Doenges, Richard Mr	4/22/16	\$1,200.00	P2016
Fanning, Robert Clark Mr	4/22/16	\$2,700.00	P2016
Rydin, Michael	4/23/16	\$1,000.00	P2016
Gun Owners of America	4/26/16	\$4,950.00	P2016
I.T. Management LLC	4/26/16	\$1,000.00	P2016
Mabry, Robert Todd	4/26/16	\$2,700.00	P2016
Marcott Family Partnership, LLC	4/26/16	\$5,000.00	P2016
Marcott, Dennis Mr	4/26/16	\$5,000.00	P2016
Scifres, Don Mr	4/26/16	\$2,700.00	P2016
Spano, Peter F Mr	4/26/16	\$1,000.00	P2016
Borgen, David Jaye Mr	4/27/16	\$1,000.00	P2016
Miller, Pat	4/27/16	\$1,000.00	P2016
Borgen, David Jaye	4/28/16	\$1,000.00	P2016
Kruse, John P Mr	4/28/16	\$2,200.00	P2016
Bouton, Norman	4/29/16	\$1,000.00	P2016

**DECLARATION OF RHIANNON MAGRUDER**

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) The principal campaign committee of a candidate must file notifications disclosing contributions of \$1,000 or more which are received after the 20<sup>th</sup> day but more than 48 hours before an election. These notifications (also called 48-Hour Notices) must be filed with the Commission within 48 hours of the committee's receipt of the contribution(s).
- 3) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
  - a) Pages 1-2 of Statement of Organization filed by Stutzman for Congress on June 14, 2010.
  - b) Pages 1-2 of Amended Statement of Organization filed by Stutzman for Senate on May 9, 2015.
  - c) 48-Hour Notice electronically submitted by Stutzman for Senate on April 28, 2016.
  - d) 48-Hour Notice electronically submitted by Stutzman for Senate on April 30, 2016.
- 4) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 6th day of July, 2017.

Rhiannon Magruder  
Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission

RECEIVED  
FED MAIL CENTER  
2010 JUN 14 AM 9:26

FEC  
FORM 1

# STATEMENT OF ORGANIZATION

Office Use Only

1. NAME OF  
COMMITTEE (in full)

☐

(Check if name  
is changed)

Example: If typing, type  
over the lines.

12FE4M5

STUTZMAN FOR CONGRESS

ADDRESS (number and street)

0250 W. 600 N

☐

(Check if address  
is changed)

HOME

IN

46746

CITY

STATE

ZIP CODE

COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)

☐

(Check if address  
is changed)

PAULEN@COMARLEN.COM

COMMITTEE'S WEB PAGE ADDRESS (URL)

☐

(Check if address  
is changed)

WWW.COMARLEN.COM

2. DATE

05' 25' 2010

3. FEC IDENTIFICATION NUMBER

C

4. IS THIS STATEMENT

☒

NEW (N)

OR

☐

AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

AMBER TAYLOR

Signature of Treasurer

Amber Taylor

Date

06' 07' 2010

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. 9437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office  
Use  
Only

For further information contact:  
Federal Election Commission  
Toll Free 800-424-6530  
Local 202-694-1100

FEC FORM 1  
(Revised 02/2008)

## 5. TYPE OF COMMITTEE

## Candidate Committee:

- (a) ☒ This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) ☐ This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate MARGEN A. STUTZMAN

Candidate Party Affiliation REP Office Sought: ☒ House ☐ Senate ☐ President State IN District 03

- (c) ☐ This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of Candidate \_\_\_\_\_

## Party Committee:

- (d) ☐ This committee is a \_\_\_\_\_ (National, State or subordinate) committee of the \_\_\_\_\_ (Democratic, Republican, etc.) Party.

## Political Action Committee (PAC):

- (e) ☐ This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:
- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Corporation             | <input type="checkbox"/> Corporation w/o Capital Stock | <input type="checkbox"/> Labor Organization |
| <input type="checkbox"/> Membership Organization | <input type="checkbox"/> Trade Association             | <input type="checkbox"/> Cooperative        |
- ☐ In addition, this committee is a Lobbyist/Registrant PAC.
- (f) ☐ This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)
- ☐ In addition, this committee is a Lobbyist/Registrant PAC.
- ☐ In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

## Joint Fundraising Representative:

- (g) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.
- (h) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

## Committees Participating in Joint Fundraiser

1. \_\_\_\_\_ FEC ID number C
2. \_\_\_\_\_ FEC ID number C
3. \_\_\_\_\_ FEC ID number C
4. \_\_\_\_\_ FEC ID number C

10030350036

**FEC  
FORM 1**

## STATEMENT OF ORGANIZATION

**Office Use Only**

1. NAME OF COMMITTEE (in full)	X (Check if name is changed)	Example: If typing, type over the lines.	12FE4M5
--------------------------------	------------------------------	--	---------

## Stutzman for Senate

**ADDRESS** (number and street)

**PO Box 129**

◀ (Check if address is changed)

**Howe**

CITY ▲

**IN**  
**STATE ▲**

**46746**

ZIP CODE ▲

**COMMITTEE'S E-MAIL ADDRESS**

◀ (Check if address is changed)

**chris@electioncfo.com**

**Optional Second E-Mail Address****COMMITTEE'S WEB PAGE ADDRESS (URL)**

◀ (Check if address is changed)

**[www.marlinstutzman.com](http://www.marlinstutzman.com)**

2. DATE 05 09 2015

3. **FEC IDENTIFICATION NUMBER**  **C** C00484683

4. IS THIS STATEMENT                      NEW (N)                      OR                      X                      AMENDED (A)

**I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.**

Type or Print Name of Treasurer Christopher M Marston

Signature of Treasurer *Christopher M Marston* [Electronically Filed] Date 05 09 2015

**NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.**

Office  
Use  
Only

**For further information contact:**  
Federal Election Commission  
Toll Free 800-424-9530  
Local 202-694-1100

**FEC FORM 1**  
(Revised 06/2012)

## 5. TYPE OF COMMITTEE

**Candidate Committee:**

- (a) ☒ This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) ☐ This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of  
Candidate

Marlin A Stutzman

Candidate  
Party Affiliation

REP

Office  
Sought:

House

☒

Senate

President

State

IN

District

- (c) ☐ This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of  
Candidate**Party Committee:**

- (d) ☐ This committee is a \_\_\_\_\_ (National, State or subordinate) committee of the \_\_\_\_\_ (Democratic, Republican, etc.) Party.

**Political Action Committee (PAC):**

- (e) ☐ This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:

Corporation

Corporation w/o Capital Stock

Labor Organization

Membership Organization

Trade Association

Cooperative

In addition, this committee is a Lobbyist/Registrant PAC.

- (f) ☐ This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)

In addition, this committee is a Lobbyist/Registrant PAC.

In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

**Joint Fundraising Representative:**

- (g) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.
- (h) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

**Committees Participating in Joint Fundraiser**

1. \_\_\_\_\_ FEC ID number C
2. \_\_\_\_\_ FEC ID number C
3. \_\_\_\_\_ FEC ID number C
4. \_\_\_\_\_ FEC ID number C

**FORM 6****CONTRIBUTIONS****FILING SEN-1677****Committee: STUTZMAN FOR SENATE**

From	Address	Employer	Occupation	Date Contributed	Amount Contributed
I.T. MANAGEMENT LLC	P.O BOX 6328 PORTLAND, Oregon 972286328			04/26/2016	1000.00
GUN OWNERS OF AMERICA	8001 FORBES PLACE SUITE 102 SPRINGFIELD, Virginia 221512205			04/26/2016	4950.00
MR. DAVID JAYE BORDEN	1325 OLD LANTERN TRAIL FORT WAYNE, Indiana 468451446	Employer: MANPOWER OF LANSING MI INC	OWNER	04/27/2016	1000.00
ROBERT TODD MABRY	5140 WEST STATE ROAD 14 SOUTH WHITLEY, Indiana 467879776	Employer: SELF	ENDODONTIST	04/26/2016	2700.00
MR. DENNIS MARCOTT	12518 BAYPOINTE TER. CORTEZ, Florida 342152564	Employer: POSTLE DISTRIBUTORS INC.	EXECUTIVE	04/26/2016	5000.00
MARCOTT FAMILY PARTNERSHIP LLC	505 SOUTH THIRD ST. STE 110 ELKHART, Indiana 465163245			04/26/2016	5000.00
MARK MARSHALL	P.O. BOX 18908 CORPUS CHRISTI, Texas 784808908	Employer: INFORMATION REQUESTED PER BEST EFFORTS	INFORMATION REQUESTED PER BEST EFFORTS	04/26/2016	1000.00
PAT MILLER	2813 E. DUPONT RD. FORT WAYNE, Indiana 468251668	Employer: EVERANCE FINANCIAL	FINANCIAL ADVISOR	04/27/2016	1000.00
MICHAEL RYDIN	5500 HOLLY ST HOUSTON, Texas 770817410	Employer: HCSS	CEO	04/26/2016	1000.00
MR. DON SCIFRES	26700 PALO HILLS DR. LOS ALTOS HILLS,	Employer: NONE	INVESTOR	04/26/2016	2700.00



MR PETER F. SPANO	California	Employer:	INFORMATION		
	940221927	INFORMATION	REQUESTED		
	4001 NORTH	REQUESTED	PER BEST	04/26/2016	1000.00
	OCEAN BLVD	PER BEST	EFFORTS		
	304	EFFORTS			
	GULF				
	STREAM,				
	Florida				
	334837509				
<b>Total Itemized Contributions = 26350.00</b>					

Generated Fri Jun 23 07:53:18 2017

Federal Election Commission, 999 E Street, NW, Washington, DC 20463 (800) 424-9530 In Washington (202) 694-1100  
For the hearing impaired, TTY (202) 219-3336 Send comments and suggestions about this site to: [webmaster@fec.gov](mailto:webmaster@fec.gov).

**FORM 6****CONTRIBUTIONS****FILING SEN-1678****Committee: STUTZMAN FOR SENATE**

From	Address	Employer	Occupation	Date Contributed	Amount Contributed
NORMAN BOUTON	2270 BEACH STREET SAN FRANCISCO, California 941231407	Employer: SELF	FINANCIAL ADVISOR	04/29/2016	1000.00
MR. JOHN P. KRUSE	2952 COUNTY ROAD 68 AUBURN, Indiana 467069615	Employer: SELF- EMPLOYD - WORLDWIDE AUCTIONEERS	PRINCIPAL/AUCTIONEER	04/28/2016	2200.00
<b>Total Itemized Contributions = 3200.00</b>					

Generated Fri Jun 23 07:51:56 2017

Federal Election Commission, 999 E Street, NW, Washington, DC 20463 (800) 424-9530 In Washington (202) 694-1100  
For the hearing impaired, TTY (202) 219-3336 Send comments and suggestions about this site to: [webmaster@fec.gov](mailto:webmaster@fec.gov).



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 6, 2017

Christopher M. Marston, in official capacity as Treasurer  
Stutzman for Senate  
P.O. Box 129  
Howe, IN 46746

C00484683  
AF#: 3234

Dear Mr. Marston:

On February 21, 2017, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Stutzman for Senate and you, in your official capacity as Treasurer ("respondents"), violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices. The Commission also made a preliminary determination that the civil money penalty was \$4,588 based on the schedule of penalties at 11 C.F.R. § 111.44.

After reviewing your written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

*Rhiannon Magruder*

Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review

July 16, 2017 2017 JUL 16 AM 8:29

Stutzman for Senate  
PO Box 129  
Howe IN 46746

Commission Secretary  
Federal Election Commission  
999 E St NW  
Washington DC 20463

VIA Facsimile 202-208-3333

RE: Stutzman for Senate  
FEC ID#: C00484683  
AF#: 3234

To the Commission:

The Committee and I, in my official capacity as treasurer, have received the Reviewing Officer Recommendation, dated July 6, 2017, in the above referenced matter and offer this written response.

I appreciate the Reviewing Officer's agreement with the Committee's challenge to the finding that it failed to file 7 notices, when fewer notices could have complied with the requirements of the Act and Commission regulations, which was confirmed by the Office of General Counsel opinion requested by the Office of Administrative Review. Reviewing Officer Recommendation, p. 3.

However, the Committee disagrees with the Reviewing Officer's conclusion regarding the proper reporting of conduit contributions. The Reviewing Officer contends that the contribution received by the conduit on April 19, which was in turn received by the Committee on April 26, would have required a report on April 20 or April 21. *Id.*

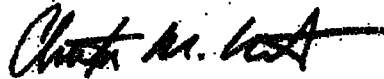
The Committee cannot do the impossible. The Committee has followed the Commission's guidance on reporting earmarked contributions by using the date on which the conduit receives the forwarded contribution. See Campaign Guide for Congressional Committees, p. 132. The Committee also notes the admonition, provided without citation to regulation, that earmarked contributions are subject to 48-hour notice reporting. *Id.* However, neither the campaign guide, nor the Commission's regulations provide specific direction on what date should be used for compliance with the 48-hour notice requirement of 11 CFR 104.5(f) with respect to 48-hour notices.

Conduits have no obligation to forward an earmarked contribution in time to enable an authorized committee to file a 48-hour notice based on the date received by the conduit.<sup>1</sup> Where, as here, the Committee has not received the earmarked contribution and has no knowledge of it, the Committee cannot be required to use the date of receipt by the conduit for purposes of 48-hour notices. It would be unfair for the Commission to impose this requirement on an authorized committee, which has no control over the conduct of a conduit, without imposing an obligation on the conduit to forward both contributions and required reporting information for contributions received during the 48-hour notice period.

For the foregoing reason, I respectfully request that the Commission calculate any civil money penalty based on 3 missed 48-hour notices, rather than 4.

Thank you for your consideration.

Sincerely,



Christopher M. Marston,  
Treasurer

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<sup>1</sup> The Commission's regulations require a conduit to forward a contribution to a committee within 10 days. "Any person who receives an earmarked contribution shall forward such earmarked contribution to the candidate or authorized committee in accordance with 11 CFR 102.8...." 11 CFR 110.6(2)(iii). "Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receipt, forward such contribution to the treasurer." 11 CFR 102.8(a). "The provisions of 11 CFR 102.8 concerning receipt of contributions for political committees shall also apply to earmarked contributions transmitted by an intermediary or conduit." 11 CFR 102.8(c).



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
SEP 12 2017

2017 AUG -2 PM 3: 00

August 2, 2017

MEMORANDUM

SENSITIVE

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 3234 – Stutzman for Senate and Christopher M. Marston, in his official capacity as Treasurer (C00484683)

On February 21, 2017, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices for 17 contributions totaling \$36,150 and made a preliminary determination that the civil money penalty was \$4,588 based on the schedule of penalties at 11 C.F.R. § 111.44.

On March 27, 2017, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer Recommendation ("ROR") dated July 6, 2017 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$4,171 civil money penalty (reduced from the RTB civil money penalty of \$4,588).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). On July 18, 2017, the Commission received their response to the ROR. The respondents agree with the recalculation of the civil money penalty to consider the minimum number of notices that could have been filed to cover the contributions in question. However, the respondents reiterate their position that it is impractical for committees to file 48-Hour Notices for contributions received through a conduit within 48 hours of the conduit's receipt of the contribution. Instead, the respondents state 48-

Hour Notices should be filed within 48 hours of a committee's receipt of the contribution from the conduit.

The Reviewing Officer requested that the Reports Analysis Division ("RAD") provide an explanation of its application of the 48-Hour Notice requirements for contributions received through a conduit. RAD explained that in practice, it "...has historically considered the *committee's* receipt of a contribution to trigger the requirement to report it on a 48-Hour Notice..." (emphasis added) Therefore, the two contributions received by a conduit on April 19 and 23, 2016 but received by the Committee on April 26, 2016 could have been reported on a 48-Hour Notice in conjunction with the other contributions received by the Committee on April 26, 2016. See Attachment 3.

The Reviewing Officer confirms the minimum number of 48-Hour Notices the Committee could have filed to cover the 17 contributions in question equals 3. Thus, the amount of the civil money penalty should be  $[(\$139 \times 3 \text{ missing notices}) + (.10 \times \$36,150 \text{ in total contributions})]$ , or \$4,032. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$4,032 civil money penalty, reduced from the RTB civil money penalty of \$4,588.

#### **OAR Recommendations**

1. Adopt the Reviewing Officer Recommendation for AF# 3234 involving Stutzman for Senate and Christopher M. Marston, in his official capacity as Treasurer, in making the final determination;
2. Make a final determination in AF# 3234 that Stutzman for Senate and Christopher M. Marston, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$4,032 civil money penalty (reduced from the RTB civil money penalty of \$4,588); and
3. Send the appropriate letter.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 3234  
Final Determination Recommendation - )  
Stutzman for Senate and Christopher M. )  
Marston, in his official capacity as )  
Treasurer (C00484683) )

CERTIFICATION

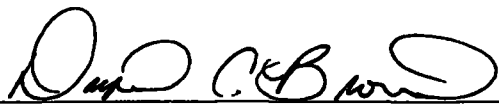
I, Dayna C. Brown, Secretary and Clerk of the Federal Election  
Commission, do hereby certify that on August 17, 2017, the Commission  
decided by a vote of 5-0 to take the following actions in AF 3234:

1. Adopt the Reviewing Officer Recommendation for AF# 3234  
involving Stutzman for Senate and Christopher M. Marston, in his  
official capacity as Treasurer, in making the final determination.
2. Make a final determination in AF# 3234 that Stutzman for Senate  
and Christopher M. Marston, in his official capacity as Treasurer,  
violated 52 U.S.C. § 30104(a) and assess a \$4,032 civil money  
penalty (reduced from the RTB civil money penalty of \$4,588).
3. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voted  
affirmatively for the decision.

Attest:

August 21, 2017  
Date

  
Dayna C. Brown  
Secretary and Clerk of the Commission

17082719524





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 18, 2017

Christopher M. Marston, in official capacity as Treasurer  
Stutzman for Senate  
P.O. Box 129  
Howe, IN 46746

C00484683  
AF#: 3234

Dear Mr. Marston:

On February 21, 2017 the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Stutzman for Senate and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) for failing to timely file 48-Hour Notices. By letter dated February 24, 2017, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$4,588 in accordance with the schedule of penalties at 11 C.F.R. § 111.44. On March 27, 2017, the Office of Administrative Review received your written response challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and your written response. Based on this review, the Reviewing Officer recommended that the Commission reduce the RTB civil money penalty, make a final determination that Stutzman for Senate and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a), and assess a civil money penalty in the amount of \$4,171 in accordance with 11 C.F.R. § 111.44. The Reviewing Officer Recommendation was sent to you on July 6, 2017. On July 18, 2017, the Commission received your response to the ROR.

The Reviewing Officer reviewed your written response. Based on this review, the Reviewing Officer recommended that the Commission reduce the RTB civil money penalty, make a final determination that Stutzman for Senate and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a), and assess a civil money penalty in the amount of \$4,032 in accordance with 11 C.F.R. § 111.44.

On August 17, 2017, the Commission adopted the Reviewing Officer's recommendation and made a final determination that Stutzman for Senate and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a), and assessed a civil money penalty in the amount of \$4,032 (reduced from the RTB civil money penalty of \$4,588). A copy of the Final Determination Recommendation is attached.

At this juncture, the following courses of action are available to you:

**1. If You Choose to Appeal the Final Determination and/or Civil Money Penalty**

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the U.S. District Court for the district in which the committee or you reside, or transact business, requesting that the final determination be modified or set aside. See 52 U.S.C. § 30109(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 52 U.S.C. § 30109. 11 CFR § 111.38.

**2. If You Choose Not to Pay the Civil Money Penalty and Not to Appeal**

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 *et seq.* If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact you to request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

Actions which may be taken to enforce recovery of a delinquent debt by Treasury may also include: (1) offset of any payments, which the debtor is due, including tax refunds and salary; (2) referral of the debt to agency counsel for litigation; (3) reporting of the debt to a credit bureau; (4) administrative wage garnishment; and (5) reporting of the debt, if discharged, to the IRS as potential taxable income. In addition, under the provisions of DCIA and other statutes applicable to the FEC, the debtor may be subject to the assessment of other statutory interest, penalties, and administrative costs.

In accordance with the DCIA, at your request, the agency will offer you the opportunity to inspect and copy records relating to the debt, the opportunity for a review of the debt, and the opportunity to enter into a written repayment agreement.

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the civil money penalty, follow the payment instructions on page 4 of this letter. You should make payment within thirty (30) days of receipt of this letter.

**NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

**4. Partial Payments**

If you make a payment in an amount less than the civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assessed upon making a final determination.

**5. Settlement Offers**

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assessed upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Steven T. Walther  
Chairman

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**ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.44, the civil money penalty is \$4,032 for 48-Hour Notices.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit [www.fec.gov/af/pay.shtml](http://www.fec.gov/af/pay.shtml) to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
PO Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
-----

FOR: Stutzman for Senate

FEC ID#: C00484683

AF#: 3234

PAYMENT AMOUNT DUE: \$4,032



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
SEP 17 2017

2017 AUG -2 PM 3:00

August 2, 2017

MEMORANDUM

SENSITIVE

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

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#### **OAR Recommendations**

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2. Make a final determination in AF# 3234 that Stutzman for Senate and Christopher M. Marston, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$4,032 civil money penalty (reduced from the RTB civil money penalty of \$4,588); and
3. Send the appropriate letter.

# THEORY